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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Inventors: Gerard GIEUX Art Unit: 3751
Application No.: 10/730,980 Examiner: P. Devore
Filed: December 10, 2003
For: A POWDER APPLICATOR FOR COSMETIC USE

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Assistant Commissioner of Patents
Washington, DC 20231

Dear Sir:

In response to the Election of Species Requirement dated March 25, 2005, the applicant hereby elects Species 2, shown in Figure 3, with traverse. Claims 1, 2, 6, 7, and 16-20 are directed to the elected species. The office action has deemed claim 1, 8, and 18-20 as generic. Under 37 CFR 1.141, upon allowance of a generic claim, the Applicants are entitled to consideration of the remaining species.

The Applicant respectfully requests withdrawal of the Election of Species Requirement. No unduly extensive or burdensome search would be required to examine the claims of the various species in the same application. MPEP §803 states:

"If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits even though it includes claims to distinct or independent inventions."

In the present case, the search for all pending claims together would not be burdensome, since the fields of search would likely overlap and pertinent art to the claims of the identified species would likely be found while searching each of the inventions individually.

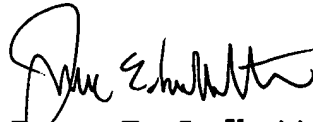
Moreover, from the standpoint of costs to the applicant involved in filing, issuance and maintenance fees relating to separate applications if the present requirement were maintained, it is clear that there is substantially more burden on the Applicant by imposing the present requirement than on the Patent Office if the requirement were withdrawn.

In addition, it is noted that to require the claims of the various species to issue in separate patents would result in inconvenience to the public by necessitating reference to more than one patent during searching, in order to review closely related subject matter.

Therefore, withdrawal of the election requirement is warranted.

Reconsideration and withdrawal of the election requirement
are respectfully requested.

Respectfully submitted,



James E. Ledbetter
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Date: April 15, 2005

JEL/ejw

ATTORNEY DOCKET NO. L741.03111

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